IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

FRIDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

* * *

WRIT PETITION No.11134 of 2006

Between:

Sk.Khadar Mastan & Ors. **… Petitioners**

Versus

The Gudur Municipal Council,
Represenmted by its Chair Person,
Gudur Municipality, Gudur,
Nellore District. **… Respondent**

Counsel for the Petitioners: **Sri P.Sridhar Reddy**

Counsel for the Respondents: **Sri S.Nageswara Reddy**

O R D E R :

The writ petition is filed for a writ of mandamus declaring the orders passed by the second respondent in RC.No.446/2000-A1, dated 10-5-2006 in so far as enhancing the rent respectively for the past six years i.e., from the year 2001 to 2004 and from 2004 to 2007 by 33 1/3 % in each spell and not renewing the lease for five years as that of the Municipal shop rooms in Gandhi Municipal Buildings as illegal, arbitrary, unjust, discriminatory and violative of Article 14 and 21 of the Constitution of India and also the provisions of AP Municipalities Act, 1965 and the rules made thereunder and set aside the said orders to that extent and direct the respondents to renew the lease of the petitioners for a period of five years on enhancement of rents prospectively and pass such other suitable orders,

The main grievance of the petitioners is that though in the case of similarly placed persons the enhancement of rent was favourably considered but in the case of the petitioners despite repeated representations the same had not been considered.

The second respondent filed counter-affidavit in detail. In para 5 of the counter-affidavit, it is stated that the second respondent issued proceedings in RC.No.446/2000-A1, dated 10-

5-2006. In the said proceedings the lease of the petitioners was renewed from 2001 to 2004 and again from 2004 to 2007 by making a statutory enhancement of 33 1/3% as per GO.Ms.No.384, M.A. & U.D. dated 19-7-1988 for each term. The second respondent had to issue the said proceedings because the second respondent was unable to renew the lease period on the respective years in view of the pendency of enquiry before the Vigilance and Enforcement people and the entire records were with them. Therefore, in the interest of Municipality and to protect the Municipality from financial loss, the second respondent had to issue the said proceedings. The petitioners also not supposed to take advantage of the inability of the Municipality in not renewing the lease period in time because of the situation out of their control. In view of that it cannot be said that the proceedings of the second respondent is illegal, arbitrary, unjust and without jurisdiction. On the other hand, all these petitioners have given consent letters dated 7-3-2005 to the second respondent stating that they have treated as if the lease period for their shop rooms was renewed for a period of three years from 2001 to 2004 and therefore, for a further period of 3 years from 2004 to 2007. They have also given

their acceptance in the said letter for the enhancement of the rent according to the decision of the second respondent and they would abide by the said decision. In view of that the petitioners cannot go back and plead other wise by ignoring their consent letter, which is binding on them.

Specific stand was taken that the respondent had not taken different yardstick for similarly placed persons. It is stated that certain representations are said to have been made on 05-2-2005 and 07-3-2005 narrating several factual details.

In view of the same, this court is of the considered opinion that impugned order as such cannot be sustained and accordingly the same is hereby set aside. However, liberty is given to the first respondent to consider the aforesaid representations in accordance with law and take appropriate decision in this regard.

Accordingly, the writ petition is disposed of at the admission stage. No costs.

SEPTEMBER 22nd, 2006. ----------

I s L. P.S.NARAYANA, J.